**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 4558 of 1996**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE M.R. SHAH**

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

**VISHUNPRASAD S TRIVEDI - Petitioner(s)**
**Versus**
**STATE OF GUJARAT & 1 - Respondent(s)**

==========

**Appearance :**
MR BIPIN I MEHTA for Petitioner(s) : 1,
MR DIPEN DESAI, AGP for Respondent(s) : 1 - 2.

==========

**CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 07/03/2007**

**ORAL JUDGMENT**

1. In the present special civil application, filed under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate order for

quashing and set aside the orders of double reversion from the post of Research Assistant to the post of Senior Clerk and from the post of Senior Clerk to the post of Junior Clerk.

2. It is the contention on behalf of the petitioner that the action of the respondent in reverting the petitioner is in breach of principles of natural justice and before passing the said orders, no opportunity is given to the petitioner. Shri Mehta, learned advocate for the petitioner also tried to make submission on merits against the orders of reversion, however, in view of the fact that this Court proposes to remand the matter to the authority concerned to which the decision has passed the orders of reversion, this Court has not heard the matter on merits at this stage.

3. Shri Dipen Desai, learned AGP has submitted that the petitioner was reverted from the post of Research Assistant to the post of Senior Clerk by an order dated 23.09.1988, which was never challenged by the petitioner and the petitioner has accepted the same.

It is submitted that the petitioner was further reverted from the post of Senior Clerk to the post of Junior Clerk on the basis of revision in seniority list and for other reasons by an order dated 28.05.1996. While, challenging the order dated 28.05.1996, the petitioner has challenged the first order of reversion, reverting the petitioner from the post of Research Assistant to the post of Senior Clerk along with present application ie. in the year 1996, which is not maintainable and the same cannot be permitted to be challenged after a period of almost 08 years and more particularly when the petitioner has accepted the said order of reversion.

4. Heard the learned counsel appearing on behalf of the respective parties.

5. By an order dated 23.09.1988, the petitioner was reverted from the post of Research Assistant to the post of Senior Clerk, which was never challenged by the petitioner till the present special civil application is filed i.e. in the year 1996. It appears that the petitioner has accepted the above

order. Therefore, it is not open for the petitioner to challenge the said order of reversion from the post of Research Assistant to the post of Senior Clerk. So far as the order of reversion dated 28.05.1996, reverting the petitioner from the post of Senior Clerk to the post of Junior Clerk is concerned, nothing is on record that before passing the said order, the petitioner was heard. Mr.Desai, learned AGP could not satisfy this Court that before the said order of reversion, whether any opportunity for hearing to the petitioner was given or not.

6. Under the circumstances, the impugned order is in breach of principles of natural justice and is required to be set aside qua the petitioner and accordingly, the impugned order dated 28.05.1996 is hereby quashed and set aside qua the petitioner and the matter is remanded to the Director, Employment and Trading, Gandhinagar, who has passed the said order and the said authority is directed to pass an appropriate order in accordance with law on merit after giving opportunity to the petitioner of being heard. The said exercise be completed within a

period of three months from the date of receipt of this order. The parties are directed to maintain status quo till the appropriate order is passed by the competent authority. The petitioner shall not be entitled for any consequential benefit or relief. Rule is made absolute. No order as to costs.

[M.R. SHAH, J.]

hiren